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7 | Attorneys for Defendant COINBASE GLOBAL, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

ADAM ALFIA, on behalf of himself and all other persons similarly situated,

Case No. 4:21-cv-08689-HSG

Plaintiff,

V.

COINBASE GLOBAL, INC.; and DOES 1 through 50,

**DECLARATION OF CARTER
MCPEHRSON-EVANS IN SUPPORT OF
DEFENDANT COINBASE GLOBAL,
INC.'S MOTION TO COMPEL
INDIVIDUAL ARBITRATION AND TO
STAY**

Date: April 28, 2022
Time: 2:00 p.m.
Dept.: Courtroom 2 – 4th Floor
Judge: Hon. Haywood S. Gilliam, Jr.

Date Filed: November 8, 2021

Trial Date: None set

1 I, Carter McPherson-Evans, declare as follows:

2 1. I submit this declaration in support of Coinbase Global, Inc.'s ("Coinbase's")
3 Motion to Compel Individual Arbitration and to Stay. It is based on personal knowledge and
4 follows reasonable investigation. If called upon as a witness to testify to the truth of these
5 statements, I could do so competently under oath.

6 2. Coinbase, Inc. is a digital currency exchange that provides an online platform for
7 the buying, selling, transferring, and storing of digital currencies (e.g., bitcoin).

8 3. Coinbase, Inc. is a wholly owned subsidiary of Coinbase Global, Inc. and is the
9 operating entity for Coinbase users in the United States. Coinbase Global, Inc. has no separate or
10 independent business relationship with Mr. Alfia.

11 4. I have been employed since February 2017 at Coinbase, Inc. I am currently a
12 Regulatory Affairs Program Manager. In that capacity, I help ensure compliance with Coinbase,
13 Inc.'s money transmitter licensing requirements, routinely review customer records to resolve
14 escalated customer disputes, and respond to regulatory inquiries.

15 5. As part of my job at Coinbase Inc., I am familiar with the process by which
16 prospective customers set up Coinbase accounts and accept the terms of the Coinbase User
17 Agreement.

18 6. I am also familiar with the way in which user account information is electronically
19 logged and stored at Coinbase, Inc., and I understand how to retrieve and interpret those records.
20 Specifically, in the regular practice of its business, Coinbase, Inc. maintains a log of various
21 actions taken by users in connection with their Coinbase accounts (the "User Activity
22 Log"). Entries in the User Activity Log are recorded automatically, via a software application
23 known internally as "Admin," at or near the time of the events that the entries record. I am
24 personally familiar with these records and use them to perform my job functions at Coinbase.

25 7. Coinbase, Inc. provides its online platform and services to its users exclusively
26 under the terms of the Coinbase User Agreement. Before a prospective user can access
27 Coinbase's platform or services, they must first create a Coinbase account and affirmatively agree
28 to the Coinbase User Agreement and Privacy Policy. Whenever a prospective user creates a

1 Coinbase account and accepts the User Agreement, that information is recorded in the User
2 Activity Log, which is stored and maintained in Admin. It is Coinbase's regular practice to use
3 Admin to record entries in the User Activity Log, including a user's acceptance of the Coinbase
4 User Agreement.

5 8. I understand that this lawsuit is brought by Plaintiff Adam Alfia. I have reviewed
6 Coinbase's User Activity Log in Admin for event entries related to Mr. Alfia. The User Activity
7 Log shows that Mr. Alfia created his Coinbase account via Coinbase's website and accepted the
8 Coinbase User Agreement and Privacy Policy on December 18, 2017, at 9:13pm PST. A true and
9 correct copy of a screenshot from Admin of the User Activity Log that shows Mr. Alfia accepted
10 the Coinbase User Agreement on December 18, 2017, is attached as **Exhibit 1**.

11 9. I am familiar with the account creation and user agreement acceptance flow that
12 existed at the time Mr. Alfia created his Coinbase account and accepted the Coinbase User
13 Agreement. That procedure, which is materially similar to the procedure in place today, works as
14 follows. First, to create a Coinbase account using an internet browser in December 2017, a
15 prospective user was required to navigate to Coinbase's website at www.coinbase.com/signup.
16 On this webpage, the prospective user was presented with five fields to provide his or her first
17 and last name, email address, newly created password, and state of residence. Below these fields
18 is a verification checkbox next to the text: "I certify that I am 18 years of age or older, and I agree
19 to the User Agreement and Privacy Policy." When hovered over with a cursor, the words "User
20 Agreement" and "Privacy Policy" became underlined to indicate that they were hyperlinked, such
21 that a user could click on those words to be taken to the full text of the User Agreement or
22 Privacy Policy. Below this text is a button labeled "CREATE ACCOUNT". A true and correct
23 screenshot of this account creation and user agreement acceptance flow as it existed in December
24 2017 is attached hereto as **Exhibit 2**.

25 10. To create an account, each prospective user was required to first complete each of
26 the above fields, and they were required to confirm (by clicking the verification box) that they
27 agreed to the User Agreement and Privacy Policy. If a customer attempted to click the "CREATE
28 ACCOUNT" button without first clicking the checkbox indicating acceptance of the User

1 Agreement and Privacy Policy, the signup page would re-load, showing a banner at the top
2 prompting the customer to “Please accept the user agreement.” In other words, when Mr. Alfia
3 created his Coinbase account, it was impossible for him to do so without expressly indicating that
4 he agreed to the User Agreement and Privacy Policy.

5 11. In addition, the attached screenshot of the User Activity Log shows that Mr. Alfia
6 checked the verification box on the registration page of Coinbase’s website, confirming that he
7 agreed to the Coinbase User Agreement and Privacy Policy, on December 18, 2017. *See Ex. 1.*

8 12. In reviewing Coinbase’s records, I have confirmed that Mr. Alfia first used his
9 account to buy or sell digital currencies on December 19, 2017, at 12:07 pm PST.

10 13. I have reviewed Coinbase’s internal archive of user agreements, which Coinbase
11 maintains in a centralized repository in the ordinary course of business. A true and correct copy of
12 the Coinbase User Agreement in effect at the time Mr. Alfia accepted the terms of the User
13 Agreement is attached hereto as **Exhibit 3**. This is the agreement that was located at
14 www.coinbase.com/legal/user_agreement in December 2017, and is the agreement that customers
15 were able to review at the time by clicking on the “User Agreement” hyperlink on the
16 www.coinbase.com/signup webpage.

17 14. Coinbase, Inc. maintains archives of its user agreements in text-only format.
18 Provisions of the User Agreement that appeared to users in bold are signified by double asterisks
19 in the attached text-only version in **Exhibit 3**. In other words, any text that is situated between
20 double asterisks would have appeared in bold in the live version on Coinbase’s website.

21 15. As part of my job, I am familiar with email correspondence sent by Coinbase to its
22 account holders regarding material changes to Coinbase’s User Agreement and Privacy Policy
23 and I understand how to retrieve and interpret those records. Specifically, in the regular practice
24 of its business, Coinbase maintains a record of certain email communications sent to its users in
25 connection with their Coinbase accounts (the “Email Campaign Database”). The entries in the
26 Email Campaign Database are recorded automatically via an internal software application at or
27 near the time that an email was sent. I am personally familiar with these records and use them to
28 perform my job function at Coinbase.

1 16. Coinbase, Inc. periodically updates its User Agreement and Privacy Policy. In
2 January 2019, Coinbase made such an update, and updated the copy of the User Agreement
3 posted at www.coinbase.com/legal/user_agreement/united_states. Based on my review of the
4 Email Campaign Database for entries related to Mr. Alfia, I can confirm that on December 27,
5 2018, Coinbase sent an email with the subject line “Annual Privacy Notice and User Agreement
6 Update” to Mr. Alfia, notifying him that Coinbase was updating its User Agreement on January
7 31, 2019. The screenshot attached as **Exhibit 4** is a true and correct copy of the form email that
8 was sent to Mr. Alfia.

9 17. The following is a true and correct copy of the text of the email sent to Mr. Alfia
10 on December 27, 2018:

11 Hello,

12 Coinbase is committed to being the easiest and most trusted place to buy and sell
13 crypto. As part of our growth, we are making some updates to our User
14 Agreement. These updates will take effect for all users on January 31st, 2019 (the
15 current User Agreement is available [here](#)).

16 For more information and a summary of the changes, please see [here](#).

17 We also like to keep you up to date on how we collect, use, and protect your
18 personal information by reminding you to check out our Privacy Policy every year.
19 We encourage you to review it carefully.

20 To learn more about our products and policies, visit support.coinbase.com.

21 Kind regards,

22 The Coinbase Team

23 18. The December 2018 email provided hyperlinks to the Updated User Agreement as
24 well as the User Agreement that was in effect at the time of the email and the current Privacy
25 Policy. A true and correct copy of the updated Coinbase User Agreement that took effect on
26 January 31, 2019, is attached hereto as **Exhibit 5**. This is the agreement that customers were able
27 to review by clicking on the “User Agreement” hyperlink contained in the December 2018 email.

28 19. I am personally familiar with the way in which account transaction history is
29 electronically logged and stored at Coinbase, and I understand how to retrieve and interpret those
30 records. In the regular course of its business, Coinbase maintains a record of the transaction
31 history of each account holder (the “Account Transaction History”). The entries in the Account

1 Transaction History related to an account holder's buying, selling, or trading of cryptocurrency
2 through the Coinbase platform are recorded automatically via an internal software application at
3 or near the time that they occur. Whenever a Coinbase account holder buys, sells, or trades
4 cryptocurrency using the Coinbase platform, that information is recorded in their Account
5 Transaction History.

6 20. I have reviewed the Account Transaction History for the Coinbase account
7 associated with Plaintiff Adam Alfia and have confirmed that he continued to use the Coinbase
8 platform after December 27, 2018. Specifically, he used the Coinbase platform to engage in
9 digital currency transactions on April 15, 2021. Most recently, he used the Coinbase platform on
10 January 18, 2022.

11 21. I understand that Mr. Alfia alleges that he logged into his account on July 19,
12 2021, and noticed that an unauthorized purchase of \$50,000 worth of ether had occurred. *See*
13 Compl. ¶ 12. It is my understanding that the transaction was reversed by Mr. Alfia's bank, Bank
14 of America, due to insufficient funds, and the \$50,000 was returned to Mr. Alfia's bank account.
15 Because the transaction was reversed by Bank of America, Coinbase's system reclaimed \$50,000
16 worth of ether from Mr. Alfia's account. Because the price of ether had increased in the interim,
17 Mr. Alfia retained 2.75325212 of the purchased ether in his account; in other words, Mr. Alfia
18 retained 2.75325212 ether in his Coinbase account ***that he did not have previously*** as a result of
19 the allegedly unauthorized transaction. A true and correct copy of the relevant portion of Mr.
20 Alfia's transaction history is attached as **Exhibit 6**.

21 22. I understand that Mr. Alfia has referenced the Coinbase Privacy Policy in his
22 Complaint but has not attached a copy of that document. A true and correct copy of the Privacy
23 Policy currently available to customers at www.coinbase.com/legal/privacy is attached as **Exhibit**
24 **7**.

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1 I declare under penalty of perjury under the laws of the United States that the foregoing is
2 true and correct and that this Declaration was executed on January 21, 2022, in Phoenix, Arizona.
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6 DocuSigned by:
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10 Carter McPherson-Evans
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